

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.,

PLAINTIFFS,

v.

U.S. DEPARTMENT OF
TRANSPORTATION et al.,

DEFENDANTS.

NO. 2:25-cv-00848

DECLARATION OF WILLIAM
PINES IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION

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ATTORNEY GENERAL OF WASHINGTON
Environmental Protection Division
800 Fifth Avenue STE 2000
Seattle, WA 98104
206-464-7744

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2 I, William Pines, declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that
3 the foregoing is true and correct:
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5 1. I am a resident of the State of Maryland. I am over the age of 18 and have
6 personal knowledge of all the facts stated herein, except to those matters stated upon
7 information and belief; as to those matters, I believe them to be true. If called as a witness, I
8 could and would testify competently to the matters set forth below.

9 2. I am currently employed by the Maryland Department of Transportation State
10 Highway Administration (“MSHA”) as the Administrator.

11 3. As the MSHA Administrator, I am responsible for leading a team of nearly
12 3,000 transportation professionals at facilities across Maryland. These include the headquarters
13 complex in Baltimore City, the Hanover complex in Anne Arundel County, seven districts, 26
14 offices and 28 maintenance shops. Working together, this team owns, operates and maintains
15 roughly 18,000 lane miles of non-toll roads and more than 2,500 bridges across the state.
16

17 4. The current MSHA six-year capital budget for state fiscal years 2025 to 2030
18 includes a total of \$6.758 billion in funding of which \$4.768 billion, or approximately 70
19 percent, is from federal-aid funding sources.
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21 5. Under the Climate Solutions Now Act, Maryland adopted greenhouse gas
22 (“GHG”) reduction goals of 60% reduction below 2006 emissions by 2031 and net-zero GHG
23 emissions by 2045. Decarbonizing Maryland’s transportation sector, which represented over a
24 third of Maryland’s GHG emissions in 2020, is one of the state’s priorities to meeting its
25 climate goals. Maryland is also in nonattainment of the national ambient air quality standard
26

1 for ground-level ozone, with vehicle pollution contributing most of the oxides of nitrogen
 2 emissions from which ozone forms. Smog is composed of ozone, which threatens the public
 3 health of Marylanders especially vulnerable people including asthmatics, children, and seniors.

4 6. To support decarbonization and control air pollution, Maryland is committed to
 5 registering 1.1 million passenger electric vehicles by 2031. Maryland must also implement the
 6 state's Advanced Clean Cars II regulation adopted in 2023. Planning for and deploying a
 7 robust publicly available charging infrastructure network statewide is a key tactic to support
 8 the expected growth of electric vehicles in Maryland.
 9

10 7. Like many states, Maryland expected the National Electric Vehicle
 11 Infrastructure ("NEVI") Formula Program established in the Infrastructure Investment and
 12 Jobs Act ("IIJA") to play a critical role in the State's ability to support a consumer fleet of
 13 electric vehicles. See IIJA, Pub. L. No. 117-58, 135 Stat. 429 (2021).
 14

15 8. The IIJA allocated \$5 billion over federal fiscal years 2022 - 2026 for the NEVI
 16 Formula Program to fund strategic deployment of electric vehicle ("EV") charging
 17 infrastructure. The Federal Highway Administration ("FHWA") administers the NEVI
 18 program. Each state is required to submit a State Electric Vehicle Infrastructure Deployment
 19 Plan ("State Plan") for each fiscal year describing how the state intends to use the NEVI funds.
 20

21 9. The IIJA further requires the Secretary of Transportation, within ninety (90)
 22 days of the statute's enactment and in coordination with the Secretary of Energy, to develop
 23 "guidance for States and localities to strategically deploy electric vehicle charging
 24 infrastructure" consistent with the NEVI Formula Program provisions of the IIJA ("NEVI
 25 Formula Program Guidance"). FHWA issued NEVI Formula Program Guidance on February
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1 10, 2022, and has updated the guidance annually.

2 10. Maryland prepared and provided to the FHWA its State Plans for fiscal years
3 2022-2025 describing how it intended to use its share of funds to carry out the NEVI Formula
4 Program. Plans were submitted for federal fiscal years 2022-2023, 2024, and 2025. The plans
5 described how Maryland intended to use its apportioned NEVI Formula Program funds. Per
6 previous federal guidance, the plans included discussion on state agency coordination, public
7 engagement, plan vision and goals, contracting process, civil rights compliance, existing and
8 future conditions analysis, electric vehicle charging infrastructure deployment status, labor and
9 workforce considerations, physical security and cybersecurity considerations, and program
10 evaluation and implementation considerations.

11 11. Maryland, through partnerships among state agencies, local governments, non-
12 profits, and the private sector, has made significant investments to support users of electric
13 vehicles. These include purchase incentives that reduce the cost of ownership over the vehicle's
14 life and investments in the public electric vehicle charging network to reduce issues of range
15 anxiety and other deterrents of purchasing electric vehicles. These efforts have helped boost
16 registered electric vehicles in Maryland from 14,930 in 2020 to 132,973 in 2025 thus far – an
17 891% increase. However, these results fall short of the state's goals, and the State Plan for fiscal
18 years 2022-2025 demonstrated that gaps in charging infrastructure statewide remain. Gaps in
19 charging stations along Alternative Fuel Corridors ("AFC") deter transitions to electric vehicles
20 and harm Maryland's existing electric vehicle owners by depriving them from convenient and
21 reliable public charging.

22 12. The FHWA approved Maryland's State Plans in letters dated September 14,
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2022, September 29, 2023, and November 15, 2024 (collectively “State Plan Approvals”).

Each letter explicitly stated that “[w]ith this approval, Fiscal Year . . . funds are now available to Maryland for obligation.”

13. The IJA made a total of \$62,818,576 of NEVI funding available to Maryland, consisting of \$9,298,080 in federal fiscal year 2022, \$13,380,042 in federal fiscal year 2023, \$13,380,134 in federal fiscal year 2024, \$13,380,146 in federal fiscal year 2025, and \$13,380,174 in federal fiscal year 2026.

14. MSHA obligated approximately \$14,668,457 of NEVI funds for MSHA’s NEVI Round 1 design-build procurement and the resulting administration of contracts for the design, construction, operations, and maintenance of twenty-two public electric vehicle charger stations along AFCs in Maryland. The NEVI funds for these public electric vehicle charger stations have been obligated and the sites are currently in development and are expected to be open to service by spring 2026.

15. On December 17, 2024, MSHA advertised its NEVI Round 2 procurement that would award multiple contracts for up to twenty-nine public electric vehicle charging stations. MSHA also submitted an authorization request for \$475,000 to support design work for Round 2 projects to FHWA at that time. Proposals were originally due to be submitted by March 26, 2025; however, following the federal actions described below, the proposal submission was delayed until June 30, 2025, via an addendum issued on February 12, 2025.

16. On January 20, 2025, President Trump issued an Executive Order (“EO”) entitled Unleashing American Energy. Section 7(a) of the EO directs all agencies to “immediately pause disbursement of funds appropriated through” the IJA, “including but not

1 limited to funds for electric vehicles charging stations made available through the [NEVI]
 2 Program.”

3 17. On February 6, 2025, MSHA received a letter from Emily Biondi, the Associate
 4 Administrator for the Office of Planning, Environment and Realty in the FHWA, with the
 5 subject “Suspending Approval of State Electric Vehicle Infrastructure Deployment Plans.”
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7 18. The February 6 letter informed State Transportation Directors that the new
 8 leadership of DOT “has decided to review the policies underlying the implementation of the
 9 NEVI Formula Program” and was therefore rescinding NEVI Formula Program Guidance.

10 19. The February 6 letter further claimed that FHWA “aims to have an updated
 11 draft NEVI Formal Program Guidance published for public comment in the spring” and that
 12 the Agency “will publish updated final NEVI Formula Guidance that responds to comments
 13 received” after the public comment period has closed.
 14

15 20. Finally, the FHWA informed MSHA that it would be “immediately suspending
 16 the approval of all State Electric Vehicle Infrastructure Deployment plans for all fiscal years”
 17 and prohibiting future obligations “under the NEVI Formula Program until the updated final
 18 NEVI Formula Program Guidance is issued and new State plans are submitted and approved.”
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20 21. The February 6 letter therefore made clear that Maryland would not have access
 21 to the unobligated total of \$34,769,945 in Fiscal Year 22-25 funds which had been made
 22 available to Maryland through its State Plan Approvals. FHWA has further given Maryland no
 23 sense of when it will receive the remaining \$13,380,174 it expected to receive for Fiscal Year
 24 2026.
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22. MSHA relied and acted upon the FHWA's statutory obligation to provide NEVI formula funding consistent with the IIJA's requirements. After a successful NEVI Round 1 procurement, MSHA launched a NEVI Round 2 procurement on December 17, 2024, with the expectation that NEVI funds available to Maryland would be available for obligation for the procurement phase and the construction phase. Due to the FHWA rescission of the previously approved plans and the prohibition on new obligations under the NEVI program, MSHA delayed its procurement for approximately three months with the expectation that further delays will be required to account for the issuance of updated final NEVI Formula Program Guidance, the submittal and approval of a new State Plan, and the update of the procurement and contracting documents to account for any changes from these updated and new documents.

23. MSHA is unable to continue with its NEVI Round 2 procurement process at this time for multiple reasons including the lack of obligated NEVI funds to administer the procurement process, the uncertainty of what the future NEVI Program requirements will be, and the difficulty in securing contractors for the remaining twenty-nine project sites due to uncertainty in funding and procurement timeline.

24. The Round 2 procurement was expected to advance the certification of Maryland's designated AFCs, in coordination with FHWA. The delay in the Round 2 procurement is expected to delay potential AFC certifications and Maryland's ability to utilize NEVI funding to advance community EV charger deployments on non-AFC public roads or in other publicly accessible locations, making the most impact in closing the State's publicly available charging gaps.

25. In conversations with partners and stakeholders, MSHA learned of concerns from the private sector regarding negative repercussions that the pause on the NEVI Program has on the electric vehicle market. MSHA expects continued waning private sector interest in participating in future rounds of Maryland's NEVI Program if this delay and uncertainty surrounding the program remains.

26. The delay in the Round 2 procurement is also expected to increase costs for the twenty-nine public electric vehicle charging stations. This cost increase will reduce MSHA's remaining NEVI allocation and reduce the number of electric vehicle chargers that MSHA can provide off the AFC network, reducing the quantity and quality of statewide public electric vehicle infrastructure overall. Based on Maryland's NEVI Round 1 data and available market estimates, MSHA projects that the withholding of Maryland's apportioned NEVI funds puts up to 180 additional fast-charging ports along Maryland's AFCs and 1,611 additional Level 2 charging ports in Maryland's communities at risk. This reduced infrastructure may lead to reduced adoption of electric vehicles across Maryland and harm Maryland's ability to meet its emission reduction goals and implementation of its Advanced Clean Cars II regulation.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

DATED this 3rd day of May, 2025, at Baltimore, Maryland.

William H. Pines
William Pines